

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION NO.184 OF 1997

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1. Whether reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the reporters or not ?
  3. Whether their lordships wish to see the fair copy of the judgment ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
  5. Whether it is to be circulated to the Civil Judge?

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BABUBHAI KANABHAI PARMAR  
VERSUS  
STATE OF GUJARAT & ORS.

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Appearance:

MR HM PARIKH for Petitioner

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Coram: MR.JUSTICE S.K. Keshote,J  
Date of order:27/07/1999

C.A.V. JUDGMENT

#. Having heard the learned counsel for the petitioner and perusing the Special Criminal Application, I am satisfied that the respondents - police authorities have

acted highly arbitrary and partially. The respondent No.4 was the M.L.A. at the relevant time. I find sufficient justification in the contention of the petitioner that because he was sitting M.L.A. at the relevant time, the police has not registered FIR against him. It is a case where there is a possibility that what the petitioner is alleging may be correct. However, it is not the stage where any final opinion has to be expressed. The petitioner has made a complaint of commission of criminal offence by M.L.A. The police should have acted in more responsible and serious manner rather than to give out impression as if it is afraid of registering the case against M.L.A. or it fears to register the case against sitting M.L.A. Whosoever has committed the offence, complaint has to be registered unless the police officers has reasons not to register the same. In this case, none of the respondents have filed reply to the Special Criminal Application. No reasons are forthcoming as to why this criminal complaint has not been registered. Moreover once, a citizen has made a complaint that somebody has committed offence, it is obligatory on the part of the police to register complaint and make investigation. It is not gainsaid that if ultimately the complaint is found to be false, the police has all the powers of prosecuting the complainant for filing false complaint, but it cannot sit tight over the complaint. That is what precisely done in the present case. The further fact that none of the respondents have chosen to file reply to the Special Criminal Application goes to show that it is a case where the police officer has not acted fairly, reasonably and impartially. There is all the possibility that because of the fact that the respondent No.4 was sitting M.L.A., at relevant time, this criminal complaint would not have been registered.

#. In the result, this Special Criminal Application is allowed and the respondents No.1, 2, and 3 are directed to register criminal complaint of the petitioner filed against respondent No.4 and make investigation. Special Criminal Application and Rule stand disposed of accordingly. No order as to costs.

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(sunil)